

Message Text

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ACTION L-02

INFO OCT-01 EUR-12 ISO-00 JUSE-00 CIAE-00 INR-05 NSAE-00

RSC-01 /021 W

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R 191505Z DEC 74

FM AMEMBASSY WARSAW

TO SECSTATE WASHDC 2640

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E.O. 11652: N/A

TAGS: AMGT, PL

SUBJECT: M/S JOZEF CONRAD LAW SUIT

REF (A) STATE 274260; (B) WARSAW 7322; (C) STATE 233194
OF DECEMBER 30, 1972

1. THE EMBASSY BELIEVES THAT IT WOULD BE INAPPROPRIATE TO GO TO THE MFA AGAIN WITH THE MORE PRECISE QUESTION AS POSED IN PARA 1 OF REF (A). AS INSTRUCTED IN REF C, WE ARE ON RECORD WITH THE MFA BY A NOTE TO THE EFFECT THAT: "THE UNITED STATES GOVERNMENT FURTHER CONSIDERS THAT UNDER GENERAL PRINCIPLES OF INTERNATIONAL LAW THERE IS NO OBLIGATION TO COMPENSATE FOR LOSSES SUSTAINED IN CONNECTION WITH THE LAWFUL CONDUCT OF MILITARY ACTIVITIES." HAVING TAKEN THIS OFFICIAL STAND TWO YEAR AGO, WE COULD HARDLY EXPECT THE MFA TO BE FORTHCOMING AT THIS TIME WITH AN ADVISORY LEGAL OPINION WHICH WOULD AID OUR CAUSE. MOREOVER, IF THEY GAVE US ANY RESPONSE IT WOULD UNDOUBTEDLY BE POLITICALLY INSPIRED IN SUPPORT OF THEIR CLAIM.

2. ALTHOUGH WE WERE ABLE TO OBTAIN SOME LEGAL CITATIONS FROM POLISH LAWYERS ON THE MORE GENERAL QUESTION (REF B), ON THE MORE PRECISE QUESTION NOW POSED (PARA 1, REF A) WE WOULD NOT BE ABLE TO OBTAIN LEGAL BRIEFS GRATIS. MOREOVER, EVEN IF FUNDS WERE AUTHORIZED TO PERMIT US TO ENGAGE LEGAL COUNSEL TO PURSUE THIS MATTER FURTHER, ANY POLISH LAWYER SO ENGAGED WOULD UN-
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DOUBTEDLY DEEM IT PRUDENT TO INFORM THE AUTHORITIES OF THE

WORK HE WAS UNDERTAKING FOR THE EMBASSY. WE CONCLUDE THAT WE ARE NOT IN A POSITION TO OBTAIN CONFIDENTIAL LEGAL OPINIONS HERE ON THE QUESTION AS NOW MORE PRECISELY DEFINED.

3. THE EMBASSY'S UNOFFICIAL TRANSLATION OF THE ARTICLES OF LAW MENTIONED IN REF B ARE AS FOLLOWS: I ART. 23 "THE PERSONAL WELFARE OF AN INDIVIDUAL, SUCH AS HIS HEALTH, LIBERTY, HONOR, FREEDOM OF CONSCIENCE, NAME, WHETHER REAL OR A PSEUDONYM, HIS IMAGE, RIGHT TO PRIVATE CORRESPONDENCE, INVIOABILITY OF DOMICILE, SCIENTIFIC AND ARTISTIC WORKS, ARE UNDER THE PROTECTION OF THE CIVIL LAW IRRESPECTIVE OF THE FACT THAT THEY ARE PROTECTED BY OTHER LAWS." II ART. 24 PARA 1 "AN INDIVIDUAL WHOSE PERSONAL WELFARE IS THREATENED BY THE ACTION OF ANOTHER MAY DEMAND THAT SUCH INDIVIDUAL DESIST IN SUCH ACTION PROVIDED THAT THIS ACTION IS ILLEGAL. IN THE CASE OF VIOLATION THE PERSON MAY DEMAND COMPENSATION FOR ACTIONS COMMITTED IN VIOLATION OF THE LAW." III ART. 33 PARA 1 "THE FOLLOWING UNITS OF THE STATE-CONTROLLED ECONOMY ARE CORPORATE BODIES: 1) STATE TREASURY; 2) STATE ENTERPRISES, THEIR SUBSIDIARIES, AND STATE BANKS; 3) OTHER STATE ORGANIZATIONAL UNITS WHICH HAVE LEGAL STATUS; 4) COOPERATIVES AND THEIR ASSOCIATIONS; 5) AGRICULTURAL COOPERATIVES AND THEIR ASSOCIATIONS; 6) OTHER SOCIAL ORGANIZATIONS WHICH HAVE LEGAL STATUS." IV ART. 34 "THE STATE TREASURY IS CONSIDERED TO BE THE SUBJECT OF RIGHTS AND OBLIGATIONS WHICH CONCERN THAT PART OF THE STATE PROPERTY WHICH IS NOT SUPERVISED BY OTHER STATE CORPORATE BODIES." V ART. 8 "FOREIGNERS IN POLAND HAVE THE SAME RIGHTS AND OBLIGATIONS AS POLISH CITIZENS PROVIDED THAT SUCH RIGHTS AND PRIVILEGES ARE NOT PROHIBITED BY OTHER SECTIONS OF THE LAW."

DAVIES

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 19 DEC 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974WARSAW07447
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740369-0686
From: WARSAW
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741221/aaaaarjz.tel
Line Count: 92
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 74 STATE 274260, 74 WARSAW 7322, 74 STATE 233194
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 30 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <30 MAY 2002 by boyleja>; APPROVED <26 MAR 2003 by ElyME>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: M/S JOZEF CONRAD LAW SUIT
TAGS: AMGT, PL
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005